

REMARKS

1 The Examiner objected to the drawings under 37 CFR 1.83(a). The Examiner
states that the "tube having an arcuate portion" must be shown or the features cancelled
from the claims. It is believed that Figure 1 clearly shows a tip that is bent at a sharp
5 point or angle from the tube, whereas Figure 2 shows a gradual and sloping curved
deviation away from the tube. The Examiner is respectfully requested to reconsider the
objection to the drawings.

 The Examiner rejected claims 1, 2 and 4 under 35 U.S.C. § 102(b) as being
anticipated by Angsupanich (5,197,949). Claim 1 has been amended to generally
10 include the limitations of claims 6 and 7, which have been cancelled. Accordingly,
Amended claim 1 now specifically recites a sleeve, which is slidably mounted on said
tube, and a gasket that is operatively coupled to the distal end of the sleeve. The
gasket is further claimed to be shaped and sized for selective sealing engagement with
15 the coracoid process when the distal end of the tube is positioned in the glenoid vault.
The prior art fails to teach or otherwise disclose a tube having a sleeve and gasket that
are slidably secured thereto, let alone such a structure that is further adapted to be
capable of selectively sealing a coracoid process while suction is applied to the tube.
Accordingly, applicant asserts that claim 1 of the present invention is patentably distinct
20 from the prior art. Claims 2 and 4 depend from claim 1 and also include the
aforementioned patentable limitations. Moreover, claims 2 and 4 recite additional
structure not found within or suggested by the prior art in the specific structural

1 combination claimed. The Examiner is respectfully requested to reconsider the
aforementioned rejections and allow claims 1, 2 and 4.

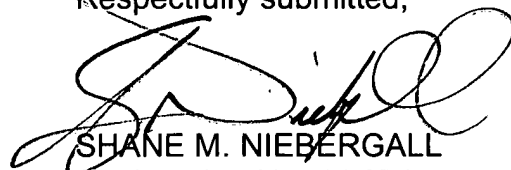
5 The Examiner rejected claims 1-3, 5 and 6 under 35 U.S.C. § 102(b) as being
anticipated by Lee et al. Claim 6 has been cancelled without prejudice. However, as
discussed previously, claim 1 has been amended to specifically recite a sleeve that is
slidably coupled to a tube, further having a gasket at the distal end of the sleeve so that
it is slidably positionable along the length of the tube. The prior art does not teach or
otherwise suggest such a structural combination. Accordingly, claim 1 is believed to be
allowable. Claims 2, 3, and 5 each depend from claim 1 and are believed to be
10 allowable for similar reasons. However, claims 2, 3 and 5 add additional structural
limitations of the present invention, the combinations of which are not disclosed or
otherwise suggested by the prior art. Claims 1-3 and 5 are believed to be allowable and
the Examiner is respectfully requested to reconsider the aforementioned rejections and
15 allow claims 1-3 and 5.

20 The Examiner rejected claims 1, 3, 6-8 under 35 U.S.C. § 102(b) as being
anticipated by Dubinsky (WO 99/52441). Claims 6 and 7 have been cancelled without
prejudice. However, Dubinsky does not read on claims 1 or 8 as amended. Claim 1, is
comprised of limitations requiring a sleeve that is slidably mounted on a tube, not within
a tube. Moreover, claim 1 recites a gasket that is coupled to the distal end of the sleeve
to sealingly engage the coracoid process. The sealing member of Dubinski is not
slidable, let alone coupled to the sleeve taught by Dubinsky. Such a combination of
structural elements is not disclosed anywhere within the art. Claim 3 depends from
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1 claim 1 and is believed to be allowable for similar reasons. Moreover, the structural
combination proposed by claim 3 is not disclosed or otherwise suggested within the art.
Similarly, claim 8 has been amended to claim a sleeve that is slidably coupled to the
outer surface of the tube, not within the tube. Moreover the sleeve is claimed as having
5 a sealing surface for selective engagement with and sealing of the coracoid process.
No such sliding/sealing structure is taught or otherwise disclosed in the art. Specifically,
Dubinsky does not teach that its sleeve could seal the opening formed within the bone
structure, as specifically claimed within claim 8. Accordingly, claims 1, 3 and 8 are
believed to be allowable and the Examiner is respectfully requested to reconsider the
10 rejections and allow claims 1, 3 and 8.

No fees or extensions of time are believed to be due in connection with this
amendment; however, consider this a request for any extension inadvertently omitted,
and charge any additional fees to Deposit Account No. 502093.

15 Respectfully submitted,




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CERTIFICATE OF MAILING

I hereby certify that the original of this AMENDMENT AFTER FINAL REJECTION for R. MICHAEL GROSS, Serial No. 10/046,592, was mailed by first class mail, postage prepaid, to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 25th day of February, 2004.


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